

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA

VS.

RICHARD DENVER BELDEN

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CASE NO. 4:18-CR-103

FINDINGS OF FACT AND RECOMMENDATION ON GUILTY PLEA
BEFORE THE UNITED STATES MAGISTRATE JUDGE

By order of the District Court, this matter is referred to the undersigned United States Magistrate Judge for administration of the guilty plea under Rule 11. Magistrate judges have the statutory authority to conduct a felony guilty plea proceeding as an “additional duty” pursuant to 28 U.S.C. § 636(b)(3). United States v. Bolivar-Munoz, 313 F.3d 253, 255 (5th Cir. 2002).

On June 20, 2019, this case came before the undersigned United States Magistrate Judge for entry of a guilty plea by Defendant, Richard Denver Belden, to Counts One, Two, and Three of the Indictment. Count One alleges sometime on or about May 2, 2018, in the Eastern District of Texas, Defendant, Richard Denver Belden, did knowingly and intentionally commit the offense of Receipt of Child Pornography, in violation of Title 18 U.S.C. § 2252A(a)(2)(A) and (b)(1). Count 2 and Count 3 allege sometime on or about May 15, 2018, in the Eastern District of Texas, Defendant, Richard Denver Belden, did knowingly and intentionally commit the offense of Possession of Child Pornography, in violation of Title 18 U.S.C. § 2252A(a)(5)(B) and (b)(2).

Defendant entered a plea of guilty to Counts One, Two, and Three of the Indictment into the record at the hearing. After conducting the proceeding in the form and manner prescribed by Federal

Rule of Criminal Procedure 11, the undersigned finds:

a. Defendant, after consultation with his attorney, has knowingly, freely, and voluntarily consented to the administration of the guilty plea in this case by a United States Magistrate Judge in the Eastern District of Texas subject to a final approval and imposition of sentence by the District Court;

b. Defendant is fully competent and capable of entering an informed plea, Defendant is aware of the nature of the charges and the consequences of the plea, and the plea of guilty is made freely, knowingly, and voluntarily. Upon addressing Defendant personally in open court, the undersigned determines that Defendant's plea is knowing and voluntary and did not result from force, threats, or promises (other than the promises set forth in the plea agreement). See FED. R. CRIM. P. 11(b)(2); and

c. Defendant's knowing and voluntary plea is supported by an independent factual basis establishing each of the essential elements of the offenses and Defendant realizes that his conduct falls within the definition of the crimes charged under in violation of Title 18 U.S.C. 2252A(a)(2)(A) and (b)(1) and Title 18 U.S.C. § 2252A(a)(5)(B) and (b)(2) .

STATEMENT OF REASONS

As factual support for Defendant's guilty plea, Defendant presented a factual basis. See Factual Basis. In support, Defendant stipulates and agrees that he is one and the same person charged in the Indictment and that the events described in the Indictment occurred in the Eastern District of Texas. Defendant stipulates and agrees to each and every essential element of the offenses as alleged in Counts One, Two, and Three of the Indictment. In support of Defendant's plea, the undersigned incorporates the proffer of evidence described in detail in the Factual Basis filed by Defendant in

support of his guilty plea.

The Government stipulated to the evidence presented in the Factual Basis. Counsel for Defendant and the Government attested to Defendant's competency and capability to enter an informed plea of guilty. Defendant testified that he was entering his guilty plea knowingly, freely, and voluntarily.

RECOMMENDED DISPOSITION

IT IS THEREFORE the recommendation of the undersigned United States Magistrate Judge that the District Court accept the Guilty Plea of Defendant, which the undersigned determines to be supported by an independent factual basis establishing each of the essential elements of the offenses charged in Counts One, Two, and Three of the Indictment. Accordingly, it is further recommended that Richard Denver Belden be finally adjudged guilty of the charged offenses under Title 18 U.S.C. § 2252A(a)(2)(A) and (b)(1) and Title 18 U.S.C. § 2252A(a)(5)(B) and (b)(2).

Defendant is ordered to report to the United States Probation Department for the preparation of a presentence report. Defendant has the right to allocute before the District Court before imposition of sentence.

OBJECTIONS

Pursuant to 28 U.S.C. § 636(b)(1)(c), each party to this action has the right to file objections to this report and recommendation. Objections to this report must: (1) be in writing, (2) specifically identify those findings or recommendations to which the party objects, and (3) be served and filed within fourteen (14) days after being served with a copy of this report, and (4) be no more than eight (8) pages in length. See 28 U.S.C. § 636(b)(1)(c) (2009); FED. R. CIV. P. 72(b)(2); Local Rule CV-72(c). A party who objects to this report is entitled to a *de novo* determination by the United

States District Judge of those proposed findings and recommendations to which a specific objection is timely made. See 28 U.S.C. § 636(b)(1) (2009); FED R. CIV. P. 72(b)(3).

A party's failure to file specific, written objections to the proposed findings of fact and conclusions of law contained in this report, within fourteen (14) days of being served with a copy of this report, bars that party from: (1) entitlement to *de novo* review by the United States District Judge of the findings of fact and conclusions of law, see Rodriguez v. Bowen, 857 F.2d 275, 276–77 (5th Cir. 1988), and (2) appellate review, except on grounds of plain error, of any such findings of fact and conclusions of law accepted by the United States District Judge, see Douglass v. United Servs. Auto. Ass'n, 79 F.3d 1415, 1428–29 (5th Cir. 1996) (en banc).

SIGNED this 3rd day of July, 2019.

A handwritten signature in black ink, appearing to read 'K. Priest Johnson', written over a horizontal line.

KIMBERLY C. PRIEST JOHNSON
UNITED STATES MAGISTRATE JUDGE